

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION

UNITED STATES OF AMERICA,)
Plaintiff,)
v.) Case No. 5:16-CV-00073
EDWARD S. FLUME, JR.,)
Defendant.)
and)
FIDELITY INVESTMENTS,)
NATIONAL FINANCIAL SERVICES, LLC., and,)
BBVA COMPASS,)
Garnishees.)

**UNITED STATES' MOTION FOR FINAL ORDER OF GARNISHMENT
TO FIDELITY INVESTMENTS**

The United States moves for a Final Order of Garnishment regarding the Writ of Garnishment served on Fidelity Investments. The United States states as follows:

The United States served a pre-judgment Writ of Garnishment on Garnishee, Fidelity Investments on May 9, 2016. *See Dkt. #8*

Pursuant to the Writ, the Garnishee Fidelity Investments answered the Writ, which was filed on June 15, 2016. *See Dkt. #17-2*. Fidelity Investments stated that it has in its possession, custody, or control, earnings belonging to Edward Flume and/or Martha Flume and Wilshire Holdings, Inc., in the aggregate amount of \$59,416. The United States is entitled to the funds.

Defendant, Martha Flume and Wilshire Holdings, through Edward Flume, were served with notice of the garnishment proceedings and Garnishee's answer. They have not requested a hearing or claimed exemptions. On July 9, 2019, the Court entered judgment against Edward S. Flume, Jr., in the aggregate amount of \$622,586.63.

Thus, the matter is ripe for a final order of garnishment. 28 U.S.C. § 3205(c)(7) provides that if no hearing is requested within the required time period (20 days from receipt of the answer), the Court shall enter an order directing the garnishee as to the disposition of the judgment debtor's nonexempt interest in the garnished property. More than 3 years have passed since Garnishee filed its Answer.

WHEREFORE, all conditions necessary for a Final Order of Garnishment pertaining to the nonexempt property belonging to or due Edward S. Flume, Jr., have been met and the United States moves for entry of the Final Order of Garnishment to Fidelity Investments.

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Herbert W. Linder
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ATTORNEYS FOR UNITED STATES

CERTIFICATE OF CONFERENCE

Pursuant to Local Rule 7.1, on July 11, 2019, I conferred with David Rodriquez, counsel for Defendant, Edward Flume and R. Spencer Shytles counsel for BBVA Compass regarding the relief sought in this Motion. Mr. Shytles responded that he is not opposed to the relief sought by the Motion. I have contacted Mr. Rodriquez on several occasions by email and phone but, have not heard back as to whether he is opposed to the Motion.

/s/ Herbert W. Linder
HERBERT W. LINDER

CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2019, that the United States' Motion for Final Order of Garnishment to Fidelity Investments was served electronically through the Clerk's ECF system or regular mail to the following:

David Rodriquez
921 Proton Rd.
San Antonio, TX 78258

R. Spencer Shytles
1401 Burnham Dr.
Plano, TX 75093
Attorney for BBVA Compass

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants:

Martha Flume
220 N. Zapata Hwy 11, PMB 1017
Laredo, TX 78043

/s/ Herbert W. Linder
HERBERT W. LINDER